

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**CIVIL MINUTES – GENERAL ‘O’**

Case No.	2:15-cv-09534-CAS(RAOx)	Date	March 24, 2017
Title	ROSA MARIA CASTRO v. SAN FERNANDO POLICE DEPARTMENT ET AL.		

Present: The Honorable CHRISTINA A. SNYDER

Catherine Jeang	Not Present	N/A
Deputy Clerk	Court Reporter / Recorder	Tape No.

Attorneys Present for Plaintiffs: Attorneys Present for Defendants:

Not Present Not Present

Proceedings: (IN CHAMBERS) - PLAINTIFF'S EX PARTE APPLICATION TO VACATE DEFENDANTS' MOTION FOR SUMMARY JUDGMENT HEARING DATE (Dkt. 44, filed March 21, 2017)

On March 21, 2017, plaintiff Rosa Maria Castro filed an ex parte motion to vacate the hearing on defendant City of San Fernando's motion for summary judgment, which is currently scheduled for April 17, 2017. Dkt. 43 ("Motion"). The City of San Fernando (the "City") filed an opposition on March 22, 2017. Dkt. 45.

Plaintiff seeks to continue the hearing on the City's motion for summary judgment pursuant to Federal Rule of Civil Procedure 56(d). Rule 56(d) "provides a device for litigants to avoid summary judgment when they have not had sufficient time to develop affirmative evidence." Burlington N. Santa Fe R. Co. v. Assiniboine & Sioux Tribes of Fort Peck Reservation, 323 F.3d 767, 773 (9th Cir. 2003). To obtain postponement or denial for further discovery, the opposing party's declarations must show: (1) facts establishing a likelihood that controverting evidence may exist as to a material fact; (2) the specific reasons why such evidence cannot be presented at the present time; and (3) the steps or procedures that the opposing party intends to utilize to obtain such evidence. Terrell v. Brewer, 935 F.2d 1015, 1018 (9th Cir. 1991). "District courts have wide latitude in controlling discovery[.]" California ex rel. California Dep't of Toxic Substances Control v. Campbell, 138 F.3d 772, 779 (9th Cir. 1998) (quotation marks omitted).

Plaintiff asserts that she has not been able to obtain discoverable information critical to her case, namely the identity of certain officers at the San Fernando Police Department ("SFPD") during the night she was in custody. During her deposition, Lieutenant Nichole Hanchett stated as early as October 24, 2016 that she could find out

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for plaintiff which officers were at the station and whether they logged in and did not log out. Motion at 9 (citing dkt 44, Ex. D, Deposition of Nichole Hanchett at 31:2–5). However, plaintiff did not obtain the “Inmate Safety Check Log” from the SFPD until March 3, 2017, nearly three months after the factual discovery cut-off (December 9, 2016). Motion at 10. Furthermore, this log contains identification numbers, not the names of officers. *Id.* at 10, 12. The City argues that plaintiff failed to diligently conduct discovery before the cut-off date. Opp’n at 2.

The Court finds that the information plaintiff seeks to discover—specifically, the names of the officers that correspond with identification numbers on the Inmate Safety Check Log—could lead to evidence that would allow plaintiff to raise a dispute of material fact in opposition to the City’s motion for summary judgment.

Accordingly, the Court **GRANTS** plaintiff’s motion to vacate the April 17, 2017 hearing on the City’s motion for summary judgment. Plaintiff shall have ninety (90) days from the date of this order to conduct further discovery. The hearing on the City’s motion is continued to July 31, 2017 at 10:00 a.m. The pretrial conference and hearing on motions in limine are continued to September 18, 2017 at 11:00 a.m. The jury trial is continued to October 10, 2017 at 9:30 a.m.

IT IS SO ORDERED.

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	CMJ